

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS
APR 21 2004

Civil Action No. 04CV10632 MEL

MARY B. SMITH,
Plaintiff

VS.

DAVID C. NICHOLSON, Trustee of the
D.J.J. Realty Trust,
DOMINIC M. SAWICKI, Trustee of the
Dominic M. Sawicki Nominee
Trust, and
Carol Ann Whitney and Glenn Whitney,
Defendants

ANSWER OF DEFENDANTS
CAROL ANN WHITNEY and
GLENN WHITNEY
TO THE PLAINTIFF'S
COMPLAINT

Now comes the Defendants, Carol Ann Whitney and Glenn Whitney and answer Plaintiff's complaint as follows:

PRELIMINARY STATEMENT

1. No answer is required to paragraph 1 of Plaintiff's complaint

JURISDICTION

2. Defendants are without sufficient information to admit or deny the allegations contained in paragraph 2 of the Plaintiff's complaint.

PARTIES

3. Defendants are without sufficient information to admit or deny the allegations contained in paragraph 3 of the Plaintiff's complaint.
4. Defendants admit that they are residents of Harwich, Massachusetts, but are without sufficient information to admit or deny the other allegations contained in paragraph 4 of Plaintiff's complaint.
5. Defendants deny the allegations contained in paragraph 5 of Plaintiff's complaint.
6. Defendants deny the allegations contained in paragraph 6 of Plaintiff's complaint.
7. Defendants deny the allegations contained in paragraph 7 of Plaintiff's complaint.
8. No answer is required to paragraph 8 of Plaintiff's complaint.

COUNT TWO

9. The Defendants repeat and reallege their answers to paragraphs 5-7 of the Plaintiff's complaint as if set forth in full herein.

10. Defendants deny the allegations contained in paragraph 10 of Plaintiff's complaint.

11. No answer is required to paragraph 11 of Plaintiff's complaint.

COUNT THREE

12. The Defendants repeat and reallege their answers to paragraph 5-7 of the Plaintiff's complaint as if set forth in full herein.

13. Defendants deny the allegations contained in paragraph 13 of Plaintiff's complaint.

FIRST AFFIRMATIVE DEFENSE

And further answering, the Defendants say that any injuries and damages alleged were caused in whole or in part by the negligence of the plaintiff to a degree greater than any alleged negligence of the Defendants.

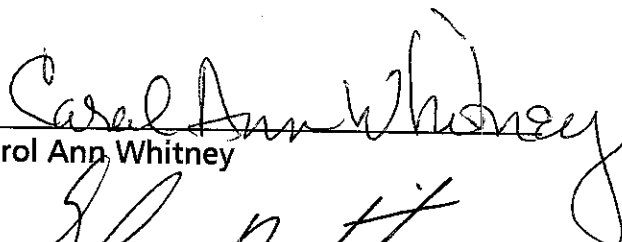
SECOND AFFIRMATIVE DEFENSE

And further answering, the Defendants say that the Plaintiff has delayed unreasonably in giving notice of this claim and in bringing this action, all to the defendants' prejudice and that the Plaintiff has waived the same, is estopped from prosecuting the same and is barred by laches from recovery herein.

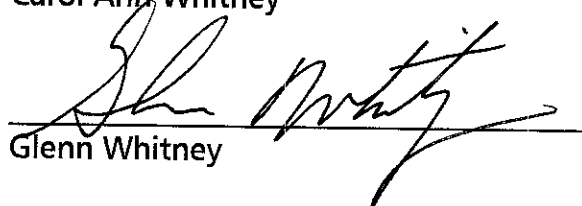
THIRD AFFIRMATIVE DEFENSE

And further answering, the Defendants say that the injuries and damages alleged were not caused by any person for whose conduct the defendants were legally responsible.

WHEREFORE, the Defendants demand that Plaintiff's complaint be dismissed and that judgment enter thereon in favor of the Defendants together with costs.



Carol Ann Whitney



Glenn Whitney

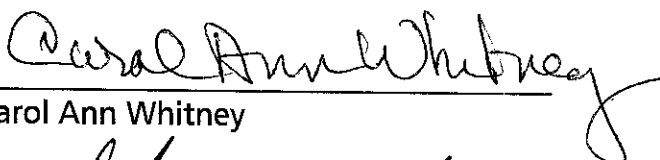
Address of Defendants:

46 Olde Homestead Way
Harwich, MA 02645

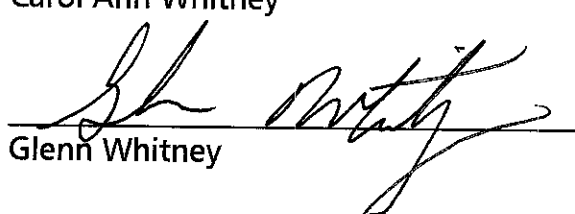
Dated: April 19, 2004

CERTIFICATE OF SERVICE

We, Carol Ann Whitney and Glenn Whitney hereby certify that on this nineteenth day of April, 2004, we have mailed, postage prepaid, this answer to Plaintiff's complaint, to Attorney Alfred J. Smith, Jr., 706 Bedford Street, Stamford, CT 06901.



Carol Ann Whitney



Glenn Whitney